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09/499,009	02/04/2000	Janne Parantainen	944-003.3	9607

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EXAMINER
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SHAH, CHIRAG G

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/499,009

Applicant(s)

PARANTAINEN ET AL.

Examiner

Chirag G Shah

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 1/26/04.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-48 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 49 is/are rejected.
- 7) ☒ Claim(s) 6-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 and 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statements filed on 7/20/00, 6/11/02, and 1/26/04 have all been reviewed and initialed.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claim 1-5 rejected under 35 U.S.C. 102(e) as being anticipated by Puuskari (WO 99/48310).

Referring to claim 1, Puuskari teaches of a mobile communication system having a packet data transmission capability based on a dynamic packet-based QoS mechanism provided

by a more static PDP context. Puuskari further discloses on page 2, lines 25 to page 8, lines 13 of a method for transferring a data flow according to a multi-layer protocol including an application layer in which an application is executing, and a plurality of lower level layers (RLC and MAC), the method of transferring data flow by creating a physical connection on a packet radio service (page 8, lines 25 to page 9, lines 25) of a telecommunication system including a network and at least one mobile station (Figure 1 and 2), the physical connection for transferring data packets on a packet data channel (page 8, lines 12 to page 9, lines 18), wherein the data flow of said data packets comprises at least one active data transfer period (claims 1-11), characterized in that the physical connection must be set up and released by setup and release information that defines and signals the set up and release of the physical connection, and wherein (page 2, lines 17 to page 3, lines 14, pages 7, lines 29 to page 9, lines 9 and on page 13 lines 9-13) as claim.

Referring to claim 2, Puuskari discloses on page 13 lines 9-13 of method according to claim 1, characterized in that the lower level layer that receives said setup and release information from the application executing in the application layer is the radio link control/medium access control (RLC/MAC) layer as claim.

Referring to claim 3, Puuskari discloses on page 2, lines 17 to page 3, lines 14, pages 7, lines 29 to page 9, lines 9 and on page 13 lines 9-13 of the method according to claim 1, characterized in that the lower level layer that receives said setup and release information from the application executing in the application layer is the radio link control (RLC) layer as claim.

Referring to claim 4, Puuskari discloses on page 13 lines 9-13 of a method according to claim 1, characterized in that the lower level layer that receives said setup and release

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information from the application executing in the application layer is the medium access control (MAC) layer as claim.

Referring to claim 5, Puuskari discloses on page 8, lines 12 to page 9, lines 18 of a method according to claim 1, characterized in that the setup and release information is transferred on the packet data channel as claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 49 rejected under 35 U.S.C. 103(a) as being unpatentable over Puuskari in view of GSM 04.60.

Referring to claim 49, Puuskari discloses on page 8, lines 12 to page 9, lines 18 of a method according to claim 1, that the set up and release of the physical connection is defined and signaled from the application executing in the application layer to a lower level layer of the multi-layer protocol so that the control events for setup and release of the physical connection are based upon requirements of the application that is executing in the application layer. However, Puuskari fails to explicitly disclose wherein the physical connection is not released during inactive period if the application executing in the application layer is determined to be a specific traffic type application. GSM 04.60 discloses on page 51, 62 and 63 that an opened-

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ended TBF transfers an arbitrary number of octets. The mobile station is required to send a Packet resource request message for each fixed allocation. GSM 04.60 further more discloses on pages 47, 48, 51, 62 thru 63 that if the new LLC PDU has a higher radio priority (traffic application priority), the mobile station shall complete the transmission of the current LLC PDU using the countdown procedure including acknowledgment from the network, if in RLC acknowledgement mode. The mobile station shall then release the TBF. Thus, implying that when the application priority is high, and if packets encounter a long delay (or an inactive period), the TBF is not released until the all (complete) the PDUs are received and acknowledged. Therefore, it would have been obvious to one of ordinary skill in the art to modify the teachings of Puuskari to include the feature as disclosed by GSM 04.60 in order to establish a high QoS without packet loss.

#### ***Allowable Subject Matter***

6. Claims 9-48 allowed
7. Claims 6-8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

8. Applicant's arguments filed 1/26/04 have been fully considered but they are not persuasive.
9. Referring to claims 1-5, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant

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relies (i.e., Applicant argues that, "the present application describes that different data packets may provide requirements to RLC/MAC TBFs. In a delay-sensitive situation, the TBF must be open all the time. The GPRS protocol stack is told when to set up TBF, and when to release it. Applicant further argues that features disclosed by Puuskari has nothing to do with maintaining the TBF connection according to requirement of an executing application) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

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**Or faxed to:**

(703) 305-3988, (for formal communications intended for entry)

**Or:**

(703) 305-3988 (for informal or draft communications, please label "Proposed" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag G Shah whose telephone number is 703-305-5639. The examiner can normally be reached on M-F 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 703-305-4366. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

cgs  
February 23, 2004

  
Ajit Patel  
Primary Examiner